

Pt. 710, Supp. 2

15 CFR Ch. VII (1–1–09 Edition)

Mexico	Rwanda	Trinidad and Tobago	United States
Micronesia	Saint Kitts and Nevis	Tunisia	Uruguay
(Federated States of)	Saint Lucia	Turkey	Uzbekistan
Moldova (Republic of)*	Saint Vincent and the Grenadines	Turkmenistan	Vanuatu
Monaco	Samoa	Tuvalu	Venezuela
Mongolia	San Marino	Uganda	Vietnam
Montenegro	Sao Tome and Principe	Ukraine	Yemen
Morocco	Saudi Arabia	United Arab Emirates	Zambia
Mozambique	Senegal	United Kingdom	Zimbabwe
Namibia	Serbia		
Nauru	Seychelles		
Nepal	Sierra Leone		
Netherlands***	Singapore		
New Zealand	Slovak Republic*		
Nicaragua	Slovenia		
Niger	Solomon Islands		
Nigeria	South Africa		
Niue**	Spain		
Norway	Sri Lanka		
Oman	Sudan		
Pakistan	Suriname		
Palau	Swaziland		
Panama	Sweden		
Papua New Guinea	Switzerland		
Paraguay	Tajikistan		
Peru	Tanzania, United Republic of		
Philippines	Thailand		
Poland	Timor Leste (East Timor)		
Portugal	Togo		
Qatar	Tonga		
Romania			
Russian Federation			

*For export control purposes, these destinations are identified using a different nomenclature under the Commerce Country Chart in supplement No. 1 to part 738 of the Export Administration Regulations (EAR) (15 CFR parts 730 through 774).

**For export control purposes, Cook Islands and Niue are not identified on the Commerce Country Chart in Supplement No. 1 to part 738 of the EAR and are treated the same as New Zealand, in accordance with § 738.3(b) of the EAR.

***For CWC States Parties purposes, a territory, possession, or department of any country that is listed in this Supplement as a State Party to the CWC, is treated the same as the country of which it is a territory, possession, or department (e.g., China includes Hong Kong and Macau; the Netherlands includes Aruba and the Netherlands Antilles).

[71 FR 24929, Apr. 27, 2006, as amended at 72 FR 14408, Mar. 28, 2007; 73 FR 78182, Dec. 22, 2008]

SUPPLEMENT NO. 2 TO PART 710—DEFINITIONS OF PRODUCTION

Schedule 1 chemicals	Schedule 2 and Schedule 3 chemicals	Unscheduled discrete organic chemicals (UDOCs)
Produced by a biochemical or biologically mediated reaction		Produced by synthesis*
Formation through chemical synthesis. Processing to extract and isolate Schedule 1 chemicals.	All production steps in any units within the same plant which includes associated processes—purification, separation, extraction distillation or refining.**	

*Intermediates used in a single or multi-step process to produce another declared UDOC are not declarable.
 **Intermediates are subject to declaration, except “transient intermediates,” which are those chemicals in a transition state in terms of thermodynamics and kinetics, that exist only for a very short period of time, and cannot be isolated, even by modifying or dismantling the plant, or by altering process operating conditions, or by stopping the process altogether are not subject to declaration.

PART 711—GENERAL INFORMATION REGARDING DECLARATION, REPORTING, AND ADVANCE NOTIFICATION REQUIREMENTS, AND THE ELECTRONIC FILING OF DECLARATIONS AND REPORTS

Sec.

711.1 Overviews of declaration, reporting, and advance notification requirements.

711.2 Who submits declarations, reports and advance notifications?

711.3 Compliance review.

711.4 Assistance in determining your obligations.

711.5 Numerical precision of submitted data.

711.6 Where to obtain forms.

711.7 Where to submit declarations, reports and advance notifications.

711.8 How to request authorization from BIS to make electronic submissions of declarations or reports.

Bureau of Industry and Security, Commerce

§ 711.4

AUTHORITY: 22 U.S.C. 6701 *et seq.*; E.O. 13128, 64 FR 36703, 3 CFR 1999 Comp., p. 199.

SOURCE: 71 FR 24929, Apr. 27, 2006, unless otherwise noted.

§ 711.1 Overviews of declaration, reporting, and advance notification requirements.

Parts 712 through 715 of the CWCR (parts 710 through 729 of this subchapter) describe the declaration, advance notification and reporting requirements for Schedule 1, 2 and 3 chemicals and for unscheduled discrete organic chemicals (UDOCs). For each type of chemical, the Convention requires annual declarations. If, after reviewing parts 712 through 715 of the CWCR, you determine that you have declaration, advance notification or reporting requirements, you may obtain the appropriate forms by contacting the Bureau of Industry and Security (BIS) (see § 711.6 of the CWCR).

§ 711.2 Who submits declarations, reports, and advance notifications.

The owner, operator, or senior management official of a facility subject to declaration, reporting, or advance notification requirements under the CWCR (parts 710 through 729 of this subchapter) is responsible for the submission of all required documents in accordance with all applicable provisions of the CWCR.

§ 711.3 Compliance review.

Periodically, BIS will request information from persons and facilities subject to the CWCR to determine compliance with the reporting, declaration and notification requirements set forth herein. Information requested may relate to the production, processing, consumption, export, import, or other activities involving scheduled chemicals and unscheduled discrete organic chemicals described in parts 712 through 715 of the CWCR. Any person or facility subject to the CWCR and receiving such a request for information will be required to provide a response to BIS within 30 working days of receipt of the request. This requirement does not, in itself, impose a requirement to create new records or maintain existing records in a manner other than that directed by the record-

keeping provisions set forth in part 721 of the CWCR.

§ 711.4 Assistance in determining your obligations.

(a) *Determining if your chemical is subject to declaration, reporting or advance notification requirements.* (1) If you need assistance in determining if your chemical is classified as a Schedule 1, Schedule 2, or Schedule 3 chemical, or is an unscheduled discrete organic chemical, submit your written request for a chemical determination to BIS. Such requests must be sent via facsimile to (202) 482-1731, e-mailed to cdr@bis.doc.gov, or mailed to the Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, and must be marked "Attn: Chemical Determination." Your request should include the information noted in paragraph (a)(2) of this section to ensure an accurate determination. Also include any additional information that you feel is relevant to the chemical or process involved (see part 718 of the CWCR for provisions regarding treatment of confidential business information). If you are unable to provide all of the information required in paragraph (a)(2) of this section, you should include an explanation identifying the reasons or deficiencies that preclude you from supplying the information. If BIS cannot make a determination based upon the information submitted, BIS will return the request to you and identify the additional information that is necessary to complete a chemical determination. BIS will provide a written response to your chemical determination request within 10 working days of receipt of the request.

(2) Include the following information in each chemical determination request:

- (i) Date of request;
- (ii) Company name and complete street address;
- (iii) Point of contact;
- (iv) Phone and facsimile number of contact;
- (v) E-mail address of contact, if you want an acknowledgment of receipt sent via e-mail;

§711.5

(vi) Chemical Name;
(vii) Structural formula of the chemical, if the chemical is not specifically identified by name and chemical abstract service registry number in Supplements No. 1 to parts 712 through 714 of the CWC; and
(viii) Chemical Abstract Service registry number, if assigned.

(b) *Other inquiries.* If you need assistance in interpreting the provisions of the CWC or need assistance with declaration, forms, reporting, advance notification, inspection or facility agreement issues, contact BIS's Treaty Compliance Division by phone at (202) 482-1001. If you require a response from BIS in writing, submit a detailed request to BIS that explains your question, issue, or request. Send the request to the address or facsimile included in paragraph (a) of this section, or e-mail the request to cwcqa@bis.doc.gov. Your request must be marked, "ATTN: CWC Assistant."

[71 FR 24929, Apr. 27, 2006, as amended at 73 FR 78182, Dec. 22, 2008]

§711.5 Numerical precision of submitted data.

Numerical information submitted in declarations and reports is to be provided per applicable rounding rules in each part (*i.e.*, parts 712 through 715 of the CWC) with a precision equal to that which can be reasonably provided using existing documentation, equipment, and measurement techniques.

§711.6 Where to obtain forms.

(a) Forms to complete declarations and reports required by the CWC may be obtained by contacting: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, Telephone: (202) 482-1001. Forms and forms software may also be downloaded from the Internet at www.cwc.gov.

(b) If the amount of information you are required to submit is greater than the given form will allow, multiple copies of forms may be submitted.

[71 FR 24929, Apr. 27, 2006, as amended at 73 FR 78182, Dec. 22, 2008]

15 CFR Ch. VII (1-1-09 Edition)

§711.7 Where to submit declarations, reports and advance notifications.

Declarations, reports and advance notifications required by the CWC must be sent either by fax to (202) 482-1731 or by mail or courier delivery to the following address: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, Telephone: (202) 482-1001. Specific types of declarations and reports and due dates are outlined in Supplement No. 2 to parts 712 through 715 of the CWC.

[73 FR 78182, Dec. 22, 2008]

§711.8 How to request authorization from BIS to make electronic submissions of declarations or reports.

(a) *Scope.* This section provides an optional method of submitting declarations or reports. Specifically, this section applies to the electronic submission of declarations and reports required under the CWC. If you choose to submit declarations and reports by electronic means, all such electronic submissions must be made through the Web-Data Entry System for Industry (Web-DESI), which can be accessed on the CWC web site at www.cwc.gov.

(b) *Authorization.* If you or your company has a facility, plant site, or trading company that has been assigned a U.S. Code Number (USC Number), you may submit declarations and reports electronically, once you have received authorization from BIS to do so. An authorization to submit declarations and reports electronically may be limited or withdrawn by BIS at any time. There are no prerequisites for obtaining permission to submit electronically, nor are there any limitations with regard to the types of declarations or reports that are eligible for electronic submission. However, BIS may direct, for any reason, that any electronic declaration or report be resubmitted in writing, either in whole or in part.

(1) *Requesting approval to submit declarations and reports electronically.* To submit declarations and reports electronically, you or your company must submit a written request to BIS at the address identified in §711.6 of the

CWCR. Both the envelope and letter must be marked, "ATTN: Electronic Declaration or Report Request." Your request should be on company letterhead and must contain your name or the company's name, your mailing address at the company, the name of the facility, plant site or trading company and its U.S. Code Number, the address of the facility, plant site or trading company (this address may be different from the mailing address), the list of persons who are authorized to view, edit, and/or submit declarations and reports on behalf of your company, and the telephone number and name and title of the owner, operator, or senior management official responsible for certifying that each person listed in the request is authorized to view, edit, and/or submit declarations and reports on behalf of you or your company (*i.e.*, the certifying official). Additional information required for submitting electronic declarations and reports may be found on BIS's Web site at www.cwc.gov. Once you have completed and submitted the necessary certifications, BIS will review your request for authorization to view, edit, and/or submit declarations and reports electronically. BIS will notify you if additional information is required and/or upon completion of its review.

NOTE TO §711.8(b)(1): You must submit a separate request for each facility, plant site or trading company owned by your company (*e.g.*, each site that is assigned a unique U.S. Code Number).

(2) *Assignment and use of passwords for facilities, plant sites and trading companies (USC password) and Web-DESI user accounts (user name and password).* (i) Each person, facility, plant site or trading company authorized to submit declarations and reports electronically will be assigned a password (USC password) that must be used in conjunction with the U.S.C. Number. Each person authorized by BIS to view, edit, and/or submit declarations and reports electronically for a facility, plant site or trading company will be assigned a Web-DESI user account (user name and password) telephonically by BIS. A Web-DESI user account will be assigned to you only if your company has certified to BIS that you are authorized to act for it in viewing, editing,

and/or submitting electronic declarations and reports under the CWCR.

NOTE TO §711.8(b)(2)(i): When persons must have access to multiple Web-DESI accounts, their companies must identify such persons on the approval request for each of these Web-DESI accounts. BIS will coordinate with such persons to ensure that the assigned user name and password is the same for each account.

(ii) Your company may reveal the facility, plant site or trading company password (USC password) only to Web-DESI users with valid passwords, their supervisors, and employees or agents of the company with a commercial justification for knowing the password.

(iii) If you are an authorized Web-DESI account user, you may not:

(A) Disclose your user name or password to anyone;

(B) Record your user name or password, either in writing or electronically;

(C) Authorize another person to use your user name or password; or

(D) Use your user name or password following termination, either by BIS or by your company, of your authorization or approval for Web-DESI use.

(iv) To prevent misuse of the Web-DESI account:

(A) If Web-DESI user account information (*i.e.*, user name and password) is lost, stolen or otherwise compromised, the company and the user must report the loss, theft or compromise of the user account information, immediately, by calling BIS at (202) 482-1001. Within two business days of making the report, the company and the user must submit written confirmation to BIS at the address provided in §711.6 of the CWCR.

(B) Your company is responsible for immediately notifying BIS whenever a Web-DESI user leaves the employ of the company or otherwise ceases to be authorized by the company to submit declarations and reports electronically on its behalf.

(v) No person may use, copy, appropriate or otherwise compromise a Web-DESI account user name or password assigned to another person. No person, except a person authorized access by the company, may use or copy the facility, plant site or trading company password (USC password), nor may any

person steal or otherwise compromise this password.

(c) *Electronic submission of declarations and reports*—(1) *General instructions*. Upon submission of the required certifications and approval of the company's request to use electronic submission, BIS will provide instructions on both the method for transmitting declarations and reports electronically and the process for submitting required supporting documents, if any. These instructions may be modified by BIS from time to time.

(2) *Declarations and reports*. The electronic submission of a declaration or report will constitute an official document as required under parts 712 through 715 of the CWC. Such submissions must provide the same information as written declarations and reports and are subject to the record-keeping provisions of part 720 of the CWC. The company and Web-DESI user submitting the declaration or report will be deemed to have made all representations and certifications as if the submission were made in writing by the company and signed by the certifying official. Electronic submission of a declaration or report will be considered complete upon transmittal to BIS.

(d) *Updating*. A company approved for electronic submission of declarations or reports under Web-DESI must promptly notify BIS of any change in its name, ownership or address. If your company wishes to have a person added as a Web-DESI user, your company must inform BIS and follow the instructions provided by BIS. Your company should conduct periodic reviews to ensure that the company's designated certifying official and Web-DESI users are persons whose current responsibilities make it necessary and appropriate that they act for the company in either capacity.

[71 FR 24929, Apr. 27, 2006, as amended at 73 FR 78182, Dec. 22, 2008]

PART 712—ACTIVITIES INVOLVING SCHEDULE 1 CHEMICALS

Sec.

712.1 Round to zero rule that applies to activities involving Schedule 1 chemicals.

712.2 Restrictions on activities involving Schedule 1 chemicals.

712.3 Initial declaration requirements for declared facilities which are engaged in the production of Schedule 1 chemicals for purposes not prohibited by the CWC.

712.4 New Schedule 1 production facility.

712.5 Annual declaration requirements for facilities engaged in the production of Schedule 1 chemicals for purposes not prohibited by the CWC.

712.6 Advance notification and annual report of all exports and imports of Schedule 1 chemicals to, or from, other States Parties.

712.7 Amended declaration or report.

712.8 Declarations and reports returned without action by BIS.

712.9 Deadlines for submission of Schedule 1 declarations, reports, advance notifications, and amendments.

SUPPLEMENT NO. 1 TO PART 712—SCHEDULE 1 CHEMICALS

SUPPLEMENT NO. 2 TO PART 712—DEADLINES FOR SUBMISSION OF SCHEDULE 1 DECLARATIONS, REPORTS, ADVANCE NOTIFICATIONS, REPORTS, AND AMENDMENTS

AUTHORITY: 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950, as amended by E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13128, 64 FR 36703, 3 CFR 1999 Comp., p. 199.

SOURCE: 71 FR 24929, Apr. 27, 2006, unless otherwise noted.

§ 712.1 Round to zero rule that applies to activities involving Schedule 1 chemicals.

Facilities that produce, export or import mixtures containing less than 0.5% aggregate quantities of Schedule 1 chemicals (see supplement No. 1 to this part) as unavoidable by-products or impurities may round to zero and are not subject to the provisions of this part 712. Schedule 1 content may be calculated by volume or weight, whichever yields the lesser percent. Note that such mixtures may be subject to the regulatory requirements of other federal agencies.

§ 712.2 Restrictions on activities involving Schedule 1 chemicals.

(a) You may not produce Schedule 1 chemicals for protective purposes.

(b) You may not import any Schedule 1 chemical unless:

(1) The import is from a State Party;